

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

HOWARD LEE HOLMES
LOLA MILDRED HOLMES

Claim No. CU-1851

Decision No. CU 582

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

R. Doyne Halbritter, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$2,500.00, was presented by HOWARD LEE HOLMES and LOLA MILDRED HOLMES based upon the asserted loss of real property located on the Isle of Pines, Cuba. Claimants have been nationals of the United States since their respective births in the State of West Virginia.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims of nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims that

(a) A claim shall not be considered under Section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof in all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimants assert the ownership and loss of land located on the Isle of Pines, Cuba, and have submitted their birth certificates, the death certificate of one Albert Keefover, and a 1909 deed from the "Isle of Pines Co." to Albert Keefover. Claimants have submitted no further probative evidence in support of this claim, even though, by letter dated September 1, 1967, the Commission advised claimants as to the type of evidence proper for submission to establish this claim under the Act.

By letter of September 16, 1967, claimants advised the Commission that, on the advice of counsel, they would not proceed with the claim at the present time.

The Commission is aware of the difficulties some claimants face in establishing their claims; this is not to say, however, that the Commission should make a favorable determination, where such action is not warranted by the evidence of record.

The Commission finds that claimants have not met the burden of proof, in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

NOV 1 1967

Edward D. Re
Edward D. Re, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

LaVern R. Dilweg
LaVern R. Dilweg, Commissioner

UNRECORDED
This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 4 DEC 1967
Francis Thresham
Clerk of the Commission

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)